



# NEVADA STATE CONTRACTORS BOARD

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## **FREQUENTLY ASKED QUESTIONS ABOUT NEVADA'S RESIDENTIAL RECOVERY FUND**

### **WHAT IS THE RECOVERY FUND?**

The Recovery Fund was established by law during the 1999 session of the Nevada Legislature to offer protection for Nevada homeowners who contract with licensed contractors and, under certain conditions are harmed by the failure of that contractor to properly perform qualified services.

### **WHO PAYS FOR THE FUND?**

All licensed contractors and sub-contractors who engage in residential construction pay a biennium assessment into the Residential Recovery Fund.

### **WHO ADMINISTERS THE FUND?**

The Nevada State Contractors Board has been charged with the responsibility of administering the fund.

### **WHO IS ELIGIBLE TO RECEIVE HELP FROM THE RECOVERY FUND?**

Owners of single-family residences, who contract with residential contractors, for the performance of any construction, remodeling, repair or improvement.

The owner must occupy the residence.

The claimant must be able to show the Board that he/she has suffered a reimbursable loss, which resulted from the conduct of a licensed contractor.

The claimant may also request payment when he/she has sued the general contractor in civil court and obtained a judgment, which has not been paid by the contractor and remains unsatisfied.

### **ARE CERTAIN PERSONS INELIGIBLE TO FILE A CLAIM?**

Claims may not be filed by a spouse of a licensee or a personal representative of the spouse or a person associated in a business relationship with the licensee other than the contract at issue, or if the license was suspended or revoked pursuant to NRS 624.300 at the time of the contract.

### **WHAT CLAIMS ARE AUTOMATICALLY REJECTED?**

A claim that includes a false or altered document; a document, billing, receipt or estimate that is found to include an enhancement, improvement, upgraded services or materials or work or repairs that are outside the scope of the original contract are automatically denied by the Executive Officer and will not be considered by the Board.

### **CAN I FILE A CLAIM ON MY RENTAL PROPERTY?**

Valid claims may only be filed on a single-family residence which is occupied by the owner. Rental property is not eligible for reimbursement from the Recovery Fund.

## **WHO CAN HELP ME TO FILL OUT MY RECOVERY FUND CLAIM?**

The Board investigator who is assigned your case will answer your questions and assist you in any way necessary to complete your claim form.

## **WHAT IF I PAID CASH AND HAVE NO SIGNED RECEIPT?**

Homeowners are required to provide proof of cash payments that support the claim and a signed receipt from the contractor. An award will not be granted by the Residential Recovery Fund Committee if there is no proof of payment to the contractor.

## **WHAT IF I ONLY HAVE A VERBAL CONTRACT AGREEMENT WITH THE CONTRACTOR?**

A verbal contract is a valid contract in the State of Nevada, however, it is extremely difficult to determine the exact terms of the agreement and work to be performed. A claim not supported by the terms of the contract or scope of work may not be validated by the Residential Recovery Fund Committee.

## **IS THERE A TIME LIMIT FOR FILING CLAIMS?**

You must file a complaint with the Board within four (4) years after the completion of the work. If you have obtained a judgment from a Nevada court, you may apply to the Board for payment within two years from the date the judgment was granted.

## **WHY DO I NEED TO GIVE COPIES OF MY CONTRACT, CHANGE ORDERS AND CANCELLED CHECKS**

The Nevada Administrative Code (NAC 624.750) requires the following documentation when submitting a claim:

1. Copy of the original contract and all change orders, credits, refunds of discounts.
2. Copies of the back and front of all cancelled checks payable to the contractor
3. Proof of any cash payments that support the claim and signed receipts
4. Copy of the perfected lien if applicable.
5. Any additional documentation requested by the Board to support the claim.

The documentation you provide establishes and documents your "injury" described in the claim, provides for consistency in awarding the funds and establishes a clean audit trail.

## **WHAT HAPPENS AFTER I FILE A CLAIM?**

Once a claim has been received, the Board staff will open a file. The contractor will be provided with copies of the documents that you have provided to the Board. Board staff will contact you and conduct an investigation to determine if the claim meets the requirements for reimbursement set forth in the Nevada Revised Statutes.

If the claim is complete and contains all required documents, the investigator will prepare your claim with the appropriate recommendations within 60 days.

Once a claim is investigated and validated, it will be assigned to the next available Residential Recovery Fund Committee hearing date. The Residential Recovery fund Committee meets every 60 days in January, March, May, July, September and November.

You will be given at least 30 days' notice before the hearing.

The Board will then schedule and conduct a public hearing on the claim. Board staff will present your claim, and you may provide supporting testimony to the Committee members.

You should contact your case investigator prior to the hearing date; discuss your claim and the staff recommendations prior to making your decision to attend the hearing.

If you do not attend the hearing, you may telephonically contact the Residential Recovery Fund Administrative Assistant at: (702) 486-1138 and obtain the results of the Committee meeting.

### **HOW LONG WILL IT TAKE FOR MY CLAIM TO BE PROCESSED AND HEARD?**

The law requires that the Board act upon a claim within six (6) months after it is filed with the Board. Residential Recovery Fund Committee meetings are held approximately every sixty (60) days.

### **WHAT IS THE SHORTEST TIME FOR A CLAIM TO BE PROCESSED?**

If a claim is complete when submitted, it could come before the Residential Recovery Fund Committee for approval within 90 to 120 days

### **WHAT IS THE LONGEST TIME IT TAKES TO PROCESS A CLAIM?**

If a claim is incomplete and additional documentation is required to support the claim, the case investigator will contact you and discuss the documents which are required. The claim will be processed when the requested documents are provided. The length of time to provide the documents and have the claim processed is totally within the control of the homeowner and is limited by the statute of limitations.

### **IF I GET MONEY FROM THE CONTRACTORS BOND WHO DO I NOTIFY?**

Notify the case investigator of any payments received from any source. The Board is required to deduct this amount from any claim granted through the fund.

### **WHAT IF MY CLAIM IS INCOMPLETE?**

If your claim is incomplete, the case investigator will contact you and advise what additional documents are required. You will be given a period of time, not to exceed 60 days, to provide the additional documentation. If the documentation is not received the claim will be closed.

If you provide the additional requested documentation, within the 4 year statute of limitations, the claim will be re-opened and moved forward for appropriate action by the Committee.

### **IF I REPAIR THE WORK MYSELF WILL I BE REIMBURSED FOR MY TIME?**

The Committee will consider the materials used to make the repairs; however, the homeowner's time making the repairs is not reimbursed. Homeowners are required to obtain bids for the repairs from properly licensed contractors.

### **HOW WILL I KNOW THE AMOUNT OF MY AWARD?**

The Residential Recovery Fund Committee will tell you the amount of your award at the hearing. This will be confirmed in writing through a written Decision & Order which you will receive within ten (10) working days.

### **WHAT HAPPENS AFTER THE RESIDENTIAL RECOVERY FUND COMMITTEE HEARING DATE?**

Within ten (10) working days after the Residential Recovery Fund Hearing date, you will receive a Decision & Order in the mail, which documents the amount of your award.

## **WHEN WILL I GET MY AWARD?**

A homeowner who is granted an award will be telephonically contacted by a staff person who will make arrangements for picking up the check approximately forty-five (45) days after the date of the Decision & Order.

## **CAN A FRIEND PICK UP MY CHECK?**

Checks are made payable to the person or persons who filed the claim. A check may only be picked up by a third party if the third party has a valid power of attorney.

## **WHAT HAPPENS IF I FILE BANKRUPTCY?**

If you file bankruptcy, you should advise the Bankruptcy Trustee of the claim/award.

## **IS THERE A LIMIT ON THE AMOUNT OF MONEY PAID OUT?**

The law provides that the maximum amount paid for a claim against the Recovery Fund cannot exceed \$35,000. Generally, the Committee will not grant an award which is more than the amount of money originally paid to the contractor.

## **I GAVE THREE BIDS FOR THE REPAIR WORK WHAT HAPPENS NEXT?**

The Residential Recovery Fund Committee will evaluate the bids which are provided by licensed contractors and generally will grant an award based upon the lowest bid.

## **HOW DO I CHECK ON THE STATUS OF MY CLAIM?**

Homeowners should telephonically contact their case investigator to determine the status of their claim.

## **AFTER AN AWARD IS MADE DOES THE CONTRACTORS BOARD SELECT A CONTRACTOR TO MAKE THE REPAIRS?**

No, the Contractors Board does not recommend or select a contractor to make the repairs. Generally an award is based on the low bid. A check is issued to the homeowner and you contract directly with the contractor of your choice. The homeowner would be responsible for paying any differences in cost.

## **IF I REPAIR THE WORK BEFORE IT IS VALIDATED BY THE BOARD'S INVESTIGATOR WILL IT HURT MY CLAIM?**

If work is repaired prior to being validated by the Board investigator the claim may be difficult to prove. The homeowner should fully document the condition of the home with photographs, etc., so that you are prepared to support your claim. Obtain at least three bids from properly licensed contractors and provide copies of cancelled checks as proof of payment to the new contractor.

In any case, the Recovery Fund Committee can not guarantee payment, nor that you will receive full reimbursement for the amounts you spend on the repairs.

## **WHAT IS THE SUBROGATION OF RIGHTS FORM**

By accepting a payment from the Residential Recovery Fund, the homeowner is required to: Subrogate Their Rights." This form declares you agree to subrogate any and all future claims or recoveries from any surety bond, cash bond, civil judgment or any other source from the contractor, to the Board and waive your rights to collect any additional money from the contractor.

The homeowner additionally agrees to repay the Board the amount of their claim, from any money they receive from the contractor, after payment by the Residential Recovery Fund.

### **SHOULD I BE PRESENT OR REPRESENTED BY AN ATTORNEY AT THE BOARD HEARING?**

This is a decision that only you can make. It is not necessary for you to be present at the Residential Recovery Fund Committee hearing. Your claim will be presented by staff personnel. It also is not necessary to be represented by an attorney in order to file a claim; however, some claimants choose to be represented by an attorney. Attorney's fees are not recoverable from the Recovery Fund.

### **IS MY CLAIM A PUBLIC RECORD**

Yes, the claim and written report of the results of the investigation are public records.

### **IF I RECEIVED MONEY FROM THE CONTRACTORS BOND, INSURANCE OR COURTS, HOW DOES THAT AFFECT MY RESIDENTIAL RECOVERY FUND CLAIM?**

If an injured person has recovered a portion of his loss from sources other than the Recovery Fund, the Board shall deduct the amount recovered from the other sources from the amount payable upon the claim and direct the difference to be paid from the Recovery Fund.

### **IF I DISAGREE WITH THE AWARD CAN I APPEAL THE DECISION OF THE COMMITTEE?**

The decision of the Residential Recovery Fund Committee is final. NRS 624.510(4) states: The decision of the Board or it's designee regarding eligibility for recovery and all related issues is final and not subject to judicial review.

### **SHOULD I PAY A LIEN, DEBT OR COLLECTION ACTION NOW OR WAIT UNTIL I GET MY MONEY FROM THE RECOVERY FUND?**

The decision on the payment of a lien, debt or collection action should be discussed with your legal counsel

### **WILL I GET THE FULL AMOUNT OF MY CLAIM?**

The amount of the award is determined by the Residential Recovery Fund Committee based upon the documentation provided and the investigation which is conducted. There is no guarantee you will receive the full reimbursement for your claim.

### **CAN I STILL SUE THE CONTRACTOR AFTER I GET MONEY FROM THE RECOVERY FUND?**

A homeowner may still sue a contractor after they receive a Residential Recovery Fund award, however, when a homeowner receives money from the Residential Recovery Fund, they are required to subrogate their rights for further collections. In the event that you collect any money from the contractor, surety bond, cash bond, civil judgment or any other source, the Nevada State Contractors Board is authorized to collect those monies from you or your estate which were previously paid by the Residential Recovery Fund.

### **WHAT HAPPENS IF I USE AN UNLICENSED CONTRACTOR?**

The Residential Recovery Fund *is not* available to homeowners who hire unlicensed contractors.

### **OTHER HELPFUL INFORMATION**

The Recovery Fund is designed for homeowners seeking to recoup losses from properly licensed Contractors. Claimants should pursue other avenues (surety as cash bonds) for recovery prior to seeking assistance from the Recovery Fund. When considering offers of settlement by or on behalf

of the contractor, claimants should keep in mind that recovery of their entire loss from the Recovery Fund is not guaranteed.

**WHERE CAN I GET ADDITIONAL INFORMATION ABOUT THE RECOVERY FUND?**

Additional information related to the Residential Recovery Fund may be located on the Board's website at [www.nscb.state.nv.us](http://www.nscb.state.nv.us) or contact the Board offices at: (702) 486-1100 in Las Vega or (775) 688-1141 in Reno.